

Regular Meeting

Agenda Item #	2
Meeting Date	November 27, 2006
Prepared By	Jessie Carpenter City Clerk
Approved By	Barbara B. Matthews City Manager

Discussion Item	First Reading Ordinance Regarding the Ward 5 Special Election of January 30, 2007
Background	<p>Ward 5 Councilmember Marc Elrich has been elected to serve on the Montgomery County Council, where his term will begin on December 4, 2006. Councilmember Elrich has resigned from the City Council effective December 3, 2006.</p> <p>On November 13, the City Council adopted Resolution 2006-72, which established Tuesday, January 30, 2007, as the date for a Ward 5 special election to fill the vacancy.</p> <p>Pursuant to Section 609 of the Charter: “All special City elections shall be conducted by the Council in the same manner [as regular City elections], as far as practicable, as set forth in this Charter.”</p> <p>The draft ordinance presented for first reading sets forth the details of the special election, including the requirements set out in the City Code and Charter. The special election will be the first conducted since adoption of Charter Amendment Resolution 2006-1. The Charter Amendment included a requirement that a candidate receive a majority of votes cast in order to be elected. It provided for ballots that allow voters to rank candidates in order of choice, and it instituted an instant runoff voting process in the event that no candidate receives a majority of first choices.</p> <p>The ordinance sets the location of the special election as Wilkinson Hall at Columbia Union College. The polling place will be open from 7:00 a.m. to 8:00 p.m.</p> <p>There is no nominating caucus for the special election. Candidates’ names are placed on the ballot by a petition signed by at least 10 qualified voters of Ward 5. Petitions must be filed with the City Clerk no later than 5:00 p.m. on January 10, 2007.</p> <p>The ordinance provides for use of paper ballots incorporating the opportunity for voters to rank candidates. As in all City elections, ballots will include a space for a write-in candidate.</p> <p>Absentee balloting will be permitted as set forth in the City Code.</p> <p>Finally, the ordinance sets a special meeting of the City Council on Wednesday, January 31, to receive the certification of the election results from the election judges.</p>

	<p>In early January, staff will prepare a two-reading ordinance for Council appointment of election judges.</p> <p>To advertise the Council vacancy and special election, a notice will be sent to all households in Ward 5 (notice attached). Once the ballot is prepared, a sample ballot will be mailed to all registered voters in the ward.</p>
Policy	City Charter and Takoma Park Code, Chapter 5 - Elections
Fiscal Impact	The FY07 Budget includes \$3,500 for FY07 election expenses.
Attachments	<ul style="list-style-type: none"> • Draft Two-Reading Ordinance Regarding Resolution Establishing a Date for the Ward 5 Special Election • Excerpts from the City Charter • Election Timetable • Notice of Council Vacancy and Special Election
Recommendation	Council to accept the ordinance at first reading.
Special Consideration	

Introduced by:

First Reading:
Second Reading:
Effective Date:

CITY OF TAKOMA PARK, MARYLAND

**ORDINANCE NO. 2006-
(Ward 5 Special Election of January 30, 2007)**

WHEREAS, Ward 5 Councilmember Marc Elrich has been elected to serve on the Montgomery County Council, where his term will begin on December 4, 2006; and

WHEREAS, Councilmember Elrich has resigned from the City Council effective December 3, 2006; and

WHEREAS, Section 308 of the City Charter provides that if a vacancy on the Council occurs more than two hundred and forty (240) days before the next regularly scheduled City election, a special election shall be held to fill the vacancy; and

WHEREAS, Section 308 of the City Charter sets forth procedures for setting the date of the special election and provides a process for candidates to have their names placed on the ballot by petition; and

WHEREAS, by Resolution 2006-72, adopted on November 13, 2006, the City Council established January 30, 2007 as the date of the Ward 5 special election; and

WHEREAS, Section 609 of the City Charter mandates that all special City elections shall be conducted by the Council in the same manner as regular City elections, as far as practicable, as set forth in the Charter.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND:

SECTION 1. A Ward 5 Special City Election shall be held at Columbia Union College, Wilkinson Hall Lobby, 7600 Flower Avenue, Takoma Park, Maryland, on Tuesday, January 30, 2007, between the hours of 7:00 a.m. and 8:00 p.m. for the purpose of electing a Ward 5 Councilmember, as follows:

- A. A Ward 5 Councilmember shall be elected by the voters of that ward only;
- B. Votes shall be cast in the special election by paper ballots; and
- C. Absentee voting shall be permitted as set forth in Title 5, Elections, Chapter 5.20, Absentee Voting, of the Takoma Park Code.

SECTION 2. If the qualification requirements of Section 304 of the City Charter are met, a person may have his or her name listed on the special election ballot as a candidate by filing a petition with the City Clerk no later than 5:00 p.m. on January 10, 2007. The petition shall clearly state that its purpose is to place a specific person's name on the ballot for the Ward 5 special election to be held on January 30, 2007. The petition shall be signed by at least 10 qualified voters of Ward 5. Each qualified voter shall both sign and print his/her name and shall include his/her address and the date of his/her signature on the petition.

SECTION 3. Before listing a person's name on the special election ballot, the City Clerk shall verify that sufficient signatures on the petition are from qualified voters of Ward 5. The invalidation of one signature on a petition shall not serve to invalidate any other signatures on the petition.

SECTION 4. The City Clerk shall provide paper ballots for the special election and sufficient voting booths for use by voters of the ward. The names of candidates shall be arranged alphabetically on all ballots.

SECTION 5. If any person registers as a write-in candidate in accordance with Section 605 of the City Charter, then the City Clerk shall arrange to have her/his name posted in the voting booths for the purpose of identifying her/him as a candidate for office.

SECTION 6. The City Clerk shall arrange for a space on the ballot for write-in votes.

SECTION 7. Notice of the special election shall be mailed to all households in Ward 5. In addition, the City Clerk shall arrange to have a sample ballot mailed to all registered voters of Ward 5, timed to be received by voters prior to the date of the special election.

SECTION 8. The City Clerk shall prepare a voter list for the ward bearing the names and addresses of all eligible voters in the ward, as certified by the Board of Supervisors of Election for Montgomery County, and shall supply such list to the Election Judges on election day. The voter registration information for all eligible non-United States citizens (names and addresses) who have registered with the City Clerk's office to vote in Ward 5 shall be incorporated into the respective ward voter lists.

SECTION 9. The City Clerk shall recommend to the Council the names of persons for designation by the Council as Election Judges to serve for the 2007 special election.

SECTION 10. Following the closing of the polls, the Election Judges shall tabulate the paper ballots cast using procedures to ensure the secrecy of the ballot, rejection of all votes when the number of votes cast by a voter exceeds the number that the voter is entitled to cast, correct counting of votes on ballots on which the proper number of votes has been indicated, the tabulating and recording of votes, and the prompt reporting of election returns after the official closing of the polls.

SECTION 11. The candidate receiving a majority of votes shall be declared elected. An instant runoff voting system shall be used to allow voters to rank candidates in order of choice. If no candidate receives a majority of first choices, the judges of election shall conduct an instant runoff consisting of additional rounds of ballot counting as set out in Section 606(e) through 606(h) of the City Charter. Instructions provided to voters shall conform substantially to the specifications of Section 606(c) of the City Charter.

SECTION 12. The Election Judges shall meet in the Takoma Park Community Center – Sam Abbott Citizens Center, as a Board of Election at 7:00 p.m. on Wednesday, January 31, 2007, and shall determine and certify the results of the election, as provided in City Charter Section 611.

SECTION 13. The City Council shall hold a Special Meeting in the Community Center – Sam Abbott Citizens Center at 7:30 p.m. on Wednesday, January 31, 2007, to receive the certification of the election results from the Election Judges.

SECTION 14. This Ordinance becomes effective upon adoption.

ADOPTED THIS ____ DAY OF _____, _____, BY ROLL-CALL VOTE AS FOLLOWS:

AYE:

NAY:

ABSTAIN:

ABSENT:

EXERPTS FROM THE CITY CHARTER

ARTICLE III THE COUNCIL

Section 301 Number, Selection, Term

(a) All legislative powers of the City are vested in a body designated as the Council of the City of Takoma Park, consisting of seven (7) members. Six (6) of these members are elected by ward and are called Councilmembers, and one (1) is elected at large and is called the Mayor. The regular term of the Councilmembers and the Mayor is two (2) years or until their successors have been elected and duly sworn. Newly elected Councilmembers and the Mayor take office on the second Monday following their election. Each Councilmember and the Mayor holding office at the time this Charter becomes effective will continue to hold office for the term for which the Councilmember or the Mayor was elected and until a successor takes office under the provisions of this Charter.

(b) If no one is elected to fill any position on the Council, or if the candidate elected for any position on the Council is unable to take office, the Clerk shall declare the position to be vacant.

Section 302 Qualifications and Salary of the Mayor

(a) The Mayor must have resided in the City for at least six months immediately preceding his/her election, and must be a qualified voter of the City. The Mayor must maintain principal residence in the City during his/her term of office. If the Mayor changes his/her principal residence from the City, the Mayor's term shall be immediately terminated and the vacancy shall be filled as provided in Section 308 of this Charter. The Mayor is prohibited from holding other publicly elective offices during his/her term of office, and is prohibited from serving on any City board, commission, or other body that has authority to adjudicate or otherwise resolve disputes.

(b) The Mayor, who during his/her term of office is convicted of or enters a plea of nolo contendere to any crime which is a felony or which is a misdemeanor related to the Mayor's public duties and responsibilities and involves moral turpitude for which the penalty may be incarceration in any penal institution, shall be removed from office pursuant to Section 2 of Article XV of the Constitution of Maryland.

(c) The Mayor may receive an annual salary as set from time to time by an ordinance passed by the Council in regular course of business; provided, however, that no change may be made in the salary of the Mayor, either by increase or decrease during the term for which he/she was elected. The ordinance making any change in the salary paid to the Mayor, either by way or increase or decrease, shall be adopted prior to the next municipal election and shall take effect only as to the next succeeding Mayor.

Section 303 Powers and Duties of the Mayor.

(a) **General.** As the chief elected official of the City, the Mayor shall be recognized as head of the City government for all intergovernmental affairs and ceremonial purposes, by the Courts for service and receipt of civil process, and by the governor for purpose of military law.

(b) **Council meetings.** The Mayor shall be a member of the Council and shall set an agenda in accordance with the Council rules and preside at all meetings of the Council.

(c) **Mayor Pro Tempore.** The Mayor shall appoint a member of the Council as the Mayor Pro Tempore who shall serve as the Mayor in the absence of the Mayor.

Section 304 Qualifications and Salary of the Councilmembers

(a) The Councilmembers shall have resided in the City (and ward from which they are elected) for at least six (6) months immediately preceding their election and shall be qualified voters of the City. The Councilmembers shall maintain their principal residence in the City and in their ward during their term of office. If a Councilmember changes his/her principal residence from the City or from the ward from which the Councilmember was elected, the Councilmember's term shall be immediately terminated and the vacancy shall be filled as provided in Section 308 of this Charter. The Councilmembers are prohibited from holding other publicly elected offices during their term of office, and are prohibited from serving on any City board, commission, or other body that has authority to adjudicate or otherwise resolve disputes.

(b) Any Councilmember, who during his/her term of office is convicted of or enters a plea of nolo contendere to any crime which is a felony or which is a misdemeanor related to the Councilmember's public duties and responsibilities and involves moral turpitude for which the penalty may be incarceration in any penal institution, shall be removed from office pursuant to Section 2 of Article XV of the Constitution of Maryland.

(c) Each Councilmember may receive an annual salary which shall be equal for all Councilmembers and may be as specified from time to time by an ordinance passed by the Council in the regular course of its business; provided, however, that the salary specified at the time any Council takes office may not be changed during the period for which the Council was elected. The ordinance making any change in the salary paid to the Councilmembers either by way of increase or decrease shall be adopted prior to the next municipal election, and shall take effect only as to the members of the next succeeding Council.

Section 305 Meeting of the Council

The newly elected Council shall meet on the second Monday following its election for the purpose of organization, after which the Council shall meet regularly at such times as may be prescribed by its rules, but generally not less frequently than once each calendar month. However, the Council may recess as it deems necessary.

Special meetings may be called by the Mayor, or a majority of the members of the Council. All meetings of the Council shall be open to the public unless the meeting is closed by the Council in accordance with the provisions of the Open Meetings Act, Subtitle 5 of Title 10 of the State Government Article, Annotated Code of Maryland, as amended. The rules of the Council shall provide that residents of the City shall have a reasonable opportunity to be heard at any regular public meeting in regard to any municipal question.

Section 306 Quorum

A majority of the Council shall constitute a quorum for the purpose of transacting business except as otherwise provided in this Charter.

Section 307 Procedure of the Council

The Council shall determine its own rules and order of business. It shall keep written minutes of its meetings. The minutes shall reflect each item that the council considered; the action that the Council took on each item; and each vote that was recorded. The minutes of regular public meetings shall be open to public inspection. If the council meets in closed session, then, in accordance with the provisions of the Open Meetings Act, Subtitle 5 of Title 10 of the State Government Article, Annotated Code of Maryland, as

amended, the minutes for its next regular public meeting shall include: (1) a statement of the time, place, and purpose of the closed meeting; (2) a record of the vote of each member of the council as to closing the meeting; (3) a citation of the authority under the Open Meetings Act for closing the meeting; and (4) a listing of the topics of discussion, persons present, and each action taken during the closed meeting.

Section 308 Vacancies on the Council

(a) Method of Filling Vacancies. Should a vacancy on the Council occur more than two hundred and forty (240) days before the next regularly scheduled City election, a special election shall be held to fill the vacancy. If the vacancy occurs less than two hundred and forty (240) days before the next regularly scheduled City election, the remaining members of the Council by a majority vote shall, within sixty (60) days, appoint a person who is qualified in accordance with Section 302 or Section 304, as applicable, to fill such vacancy for the remainder of the unexpired term.

(b) Special Election. If a vacancy is to be filled by special election, the remaining members of the Council shall, by resolution, establish a date for the special election which shall be not less than forty-five (45) days nor more than sixty (60) days from the date of the vacancy.

(c) Ballot. If the requirements of Section 302 or Section 304, as applicable, are met, a person may have his/her name listed on the special election ballot as a candidate to fill a vacancy on the Council by submitting a petition to the City Clerk with a sufficient number of valid signatures at least twenty (20) days prior to the date scheduled for the special election.

(d) Petition. The petition must clearly state that its purpose is to place a specific person's name on the ballot at a special election to fill a vacancy on the Council of the City of Takoma Park, the office and/or ward that the election is being held to fill, and the date of the special election.

(1) For a Mayoral vacancy, a person must have the signatures of at least 30 qualified voters of the City in order to be listed on the special election ballot as a candidate.

(2) For a Councilmember vacancy, a person must have the signatures of at least 10 qualified voters of the ward in which there is a vacancy in order to be listed on the special election ballot as a candidate.

(3) A qualified voter may sign the petition of more than one person to fill a vacancy on the Council. Each qualified voter shall print his/her name under the signature and shall include his/her address and the date of his/her signature on the petition.

(4) Before listing a person's name on a special election ballot as a candidate to fill a vacancy on the Council, the City Clerk shall verify that sufficient signatures on a petition are from qualified voters of the City and for a Councilmember vacancy of the ward in which there is a vacancy. The invalidation of one signature on a petition shall not serve to invalidate any other signatures on a petition.

(e) Voting. For a Mayoral vacancy, all qualified voters of the City may vote in the special election to fill a vacancy on the Council. For a Councilmember vacancy, only qualified voters of the ward in which there is a vacancy may vote in the special election to fill a vacancy on the Council.

(f) Write-Ins Permitted. A qualified voter also may write in the name of a candidate on the special election ballot to fill a vacancy on the Council.

(g) Results of Special Election. The candidate who meets the qualifications for office as specified in Section 302 or Section 304, as applicable, and who receives a majority of votes in accordance

with Section 606 in the special election to fill a vacancy on the Council shall be the winner and shall serve on the Council for the remainder of the unexpired term for which his/her predecessor was elected. (Charter Amendment Resolution 2006-1)

Section 309 Ordinances

(a) In order to enable the Council to exercise fully the power conferred upon them by this Charter and to enable them to better promote and preserve the public health, safety and welfare, the Council may pass all ordinances, resolutions, or by-laws that are from time to time necessary.

(b) An ordinance may be passed, amended, rejected or have its consideration deferred at any regular or special Council meeting held not less than five (5) days after the meeting at which it was introduced.

(c) Any ordinance introduced but upon which no final action is taken shall expire at the end of the Council's term as defined by Section 301.

(d) Every ordinance passed shall become effective at the expiration of twenty (20) calendar days following approval of the Council unless otherwise stated in the ordinance.

(e) Upon a finding that an emergency exists, the provision that an ordinance may not be passed at the meeting at which it is introduced may be suspended by the affirmative votes of four members of the Council. An emergency ordinance shall become effective on the date specified in the ordinance.

Section 310 Appointments

The Council shall make appointments to such standing committees, ad hoc committees, and boards and commissions as are necessary from time to time.

Section 311 Files of Ordinances

Ordinances shall be permanently filed and shall be kept available for public inspection.

ARTICLE VI REGISTRATION, NOMINATIONS, AND ELECTIONS

Section 601 Qualifications of Voters

(a) Every person who (1) is a resident of Takoma Park, (2) is at least eighteen years of age or will be eighteen years of age on or before the date of the next City election, (3) has resided within the corporate limits of the City for 30 days immediately preceding the City election, (4) has not been convicted of theft or other infamous crime, unless the person has been pardoned or, in connection with a first conviction, has completed the sentence imposed for the conviction, including probation, (5) has not been convicted of buying or selling votes, (6) is not under guardianship for mental disability, and (7) is registered in accordance with the provisions of this charter, is a qualified voter of the City. Every qualified voter of the City is entitled to vote in all City elections.

(b) The City of Takoma Park shall be divided into six (6) wards for municipal voting purposes. The ward boundaries shall be established by ordinance and shall be reviewed after each decennial census. The boundary descriptions of the six (6) wards shall be kept on file for public view at all times in the office of the City Clerk.

Section 602 Lists of Registered Voters: Certification by Supervisors of Elections

(a) On the third Monday in September, prior to the City election, the City Clerk shall request from the Board of Elections supervisors for Montgomery County a certified, alphabetical list of the names and addresses of those people residing in the City and registered to vote.

(b) The Board of Elections supervisors shall, on or before the last Monday in October falling at least thirty (30) days prior to the election of each second year, certify to the Council revisions, if any, in the list so certified theretofore by them.

(c) Names of persons added by such revisions shall be deemed to have been certified originally, and those persons shall be entitled to vote in the next succeeding election; and names of persons removed by such revisions shall be deemed not to have been certified originally, and those persons shall not be entitled to vote in the next succeeding election notwithstanding the original certification of their names.

(d) In the event of a special election, including but not limited to special elections to fill Council vacancies and recall elections, at least thirty (30) days prior to the date of the election, the City Clerk shall request from the Board of Elections supervisors for Montgomery County certified, alphabetical lists of the names and addresses of those people residing in the City and registered to vote.

(e) The right to vote in City elections under this Charter shall depend entirely upon whether or not a person claiming such right shall have been certified in accordance with the provisions of this section and be a resident of the City at the time of the election.

(f) Right of appeal to the Circuit Court of Montgomery County is hereby given any person who shall consider herself/himself aggrieved by the omission of his/her name from any list of voters certified hereunder or revision thereof.

Section 603 Registration

(a) Any resident of Takoma Park who is a United States citizen may register to vote at the Board of Elections supervisors for Montgomery County any time these offices are open for business or by mail. Registration shall be permanent unless such registration shall be canceled as provided by state law. No person is entitled to vote unless properly registered.

(b) Any resident of Takoma Park who is not a United States citizen, and who is otherwise qualified to be registered as a voter in any election pursuant to Article I, Section I of the Constitution of Maryland, and Section 3-102 of Article 33, as amended, or any equivalent provision(s) of the Annotated Code of Maryland, may register with the City Clerk, who shall maintain a separate voter roll from the existing voter roll generated by the Montgomery County Board of Elections, to include the names of those non-United States Citizens. The City Clerk shall promptly send notice to any jurisdiction in the United States, if any, where the new registrant was formerly registered, requesting the cancellation of said voter's prior registration.

Section 604 Nominations

(a) Nominations for Mayor and Councilmembers shall be made at a meeting of citizens called by the City Clerk at the direction of the Council. Such meeting shall be held at a convenient place within the City to be designated by the Council and notice thereof shall be given through a newspaper or newspapers of general circulation within the City and/or by handbills generally distributed and posted throughout the City. The meeting shall be held on the Tuesday evening five weeks prior to the election but if this date conflicts with Rosh Hashanah (Jewish New Year) or with Yom Kippur (Jewish Day of Atonement), then the meeting shall be scheduled for the next weekday evening after the end of the second day of Rosh Hashanah or after the end of Yom Kippur. The City Clerk shall preside at the meeting; a qualified voter of the City shall be chosen as secretary of the meeting by the qualified voters of the City present; the secretary shall keep a record of the proceedings of the meeting and file the same in the office of the City Clerk. (Charter Amendment Resolution 2006-1)

(b) Nominations of candidates for Mayor shall be made on motion by any qualified voter of the City, and if such nomination is seconded by a qualified voter of the City, the persons so nominated shall be considered a candidate. Nomination of each candidate for Councilmember shall be made on motion of any qualified voter of her/his ward, and if such nomination is seconded by a qualified voter of his/her ward, the person so nominated shall be considered a candidate. Any nominated candidate may decline a nomination during the nomination meeting. A person may only accept a nomination of one City office. The name of each person nominated for the office of Mayor and Councilmember shall be placed upon the official ballot unless he/she shall file a declination with the City Clerk within three (3) days after his/her nomination.

(c) The Council shall develop such rules and procedures as are necessary relating to nomination proceedings consistent with the provisions of this Charter.

(d) Any person nominated as a candidate must meet the qualifications of the office for which she/he is nominated.

Section 605 Write-In Candidates

(a) Any write-in candidate for Mayor or Councilmember who wishes to be pre-registered as a write-in candidate and to have her/his name posted in the voting booth for the purpose of identifying her/him as a candidate for office, must file her/his name with the City Clerk by 5:00 p.m. on the Friday prior to the election.

(b) A voter in a City election may write-in the name of any [candidate] person for the office of Mayor or Councilmember in the method provided by the City Clerk on election day.

(c) A voter may only write-in one candidate for each office.

(d) Only those write-in candidates who are qualified to serve for the office for which they are written-in as Mayor or Councilmember as provided by this Charter shall be eligible to hold said office.

Section 606 Election of Mayor and Councilmembers

(a) On the first Tuesday after the first Monday in November in every odd-numbered year, the certified voters of the City shall elect its governing body of seven (7) members. Six (6) of these members are elected by ward and are called Councilmembers, and one (1) is elected at large and is called Mayor. Each of those elected shall reside in the City and be voters of the City, and in the case of the Councilmembers, be residents of the areas from which they are so elected consistent with the provisions of Section 304, Article III of this Charter.

(b) The candidate receiving a majority of votes for Mayor shall be declared elected. The candidate for Council receiving a majority of votes in each ward shall be declared elected.

(c) An instant runoff voting system shall be used in order to elect the Mayor and Councilmembers with a majority of votes by allowing voters to rank candidates in order of choice. Instructions on instant runoff voting provided to voters shall conform substantially to the following specifications, although subject to modification based on ballot design and voting system:

"Vote for candidates by indicating your first-choice candidate, your second-choice candidate, and so on. Indicate your first choice by marking the number '1' beside a candidate's name, your second choice by marking the number '2' beside that candidate's name, your third choice by marking the number '3,' and so on, for as many choices as you wish. You are free to rank only one candidate, but ranking additional candidates cannot help defeat your first-choice candidate. Do not mark the same number beside more than one candidate. Do not skip numbers."

(d) The first choice marked on each ballot shall be counted initially by the judges of election as one vote. If any candidate receives a majority of the first choices, that candidate shall be declared elected.

(e) If no candidate receives a majority of first choices, the judges of election shall conduct an instant runoff consisting of additional rounds of ballot counting. In every round of counting, each ballot is counted as one vote for that ballot's highest ranked advancing candidate. "Advancing candidate" means a candidate for that office who has not been eliminated. A candidate receiving a majority of valid votes in a round shall be declared elected. If no candidate receives a majority of valid votes in a round, the candidate with the fewest votes shall be eliminated, and all ballots shall be recounted. This process of eliminating the candidate with the fewest votes and recounting all ballots shall continue until one candidate receives a majority of the valid votes in a round.

(f) To facilitate ballot counting in any round, the judges of election may eliminate all candidates with no mathematical chance of winning. A candidate has no mathematical chance of winning if the sum total of all votes credited to that candidate and all candidates with fewer votes is less than the number of votes credited to the candidate with the next greatest number of votes.

(g) If a ballot has no more available choices ranked on it, that ballot shall be declared “exhausted” and not counted in that round or any subsequent round. Ballots skipping one number shall be counted for that voter's next clearly indicated choice, but ballots skipping more than one number shall be declared exhausted when this skipping of numbers is reached. Ballots with two or more of the same number shall be declared exhausted when such duplicate rankings are reached unless only one of the candidates with the duplicate ranking is an advancing candidate.

(h) In the event of a tie that affects the outcome of the election, the tie shall be broken by comparing the votes of the tied candidates in the previous rounds of counting, starting with the count immediately preceding the round in which the tie occurs. If one of the tied candidates had more votes than the remaining tied candidates in the preceding round or an earlier round of counting, then that candidate shall advance and the others shall be eliminated. If the candidates were tied in each preceding round, then the tie shall be resolved by lot. In the event that this tie occurs between or among all remaining candidates, then a runoff election between or among the tied candidates shall be held within forty-five (45) days after the date of the election.

(i) The Council may modify the form of the ballots, the instructions to voters, and the details with respect to the method of marking, sorting, counting, invalidating, and retaining ballots and the tabulating and recounting of votes pursuant to this section, provided that no change shall be made that will alter the intent or principles of instant runoff voting as set forth in this section. (Charter Amendment Resolution 2006-1)

Section 607 Conduct of Elections Generally

(a) The Council, by ordinance, shall provide for said elections; shall designate in said ordinance a convenient polling place or places; shall appoint judges of election; shall designate the manner of holding said election; shall designate and provide the voting system to be used; and shall conduct said elections in accordance with the provisions of this section.

(b) Elections shall be conducted by the judges appointed by the Council under the supervision of the City Clerk, and shall be held at some convenient place or places to be designated by the Council; any vacancy in the list of judges occurring between their appointment and the election shall be filled by the Mayor. The polls shall be opened at 7:00 A.M. and closed at 8:00 P.M.

Section 608 Absentee Ballots

The Council, by ordinance, shall arrange for voting by absentee ballot for any qualified voter who is unable to cast a ballot during regularly scheduled hours on election day by reason of physical condition or necessary absence.

Section 609 Special Elections

All special City elections shall be conducted by the Council in the same manner, as far as practicable, as set forth in this Charter.

Section 610 Advisory Referendums

(a) A question for referendum or a legislative initiative, not otherwise provided for in this Charter and regarding a matter over which the Council has authority, may be placed on the ballot in any regular or special City election. All such referendum questions or initiatives, unless they are made binding on the Council by any other section of this Charter or by other applicable city, county, state or federal law, shall be advisory only and shall not bind or obligate the Council or the City to enact any ordinance or resolution or to perform any act or function.

(b) Advisory referendum questions or legislative initiatives may be placed on the ballot in any City election in the following manner:

(1) The Council may, by resolution passed by a majority of the Council, provide for an advisory referendum question or legislative initiative to be placed on the ballot at any regular municipal election or at a special election.

(2) Twenty percent (20%) or more of the qualified voters of the City may sign a petition to the Council to place an advisory referendum question or legislative initiative on the ballot. The petition shall contain the language to be placed on the ballot. Each qualified voter signing the petition shall indicate on the petition the person's name and residence address. Within thirty (30) days after receiving the petition, the City Clerk shall verify that any person who signed the petition is a qualified voter of the City and that the petition contains the required number of signatures.

(3) Provided the City Clerk has certified that the petition contains the required number of signatures, the Council shall, by resolution passed by a majority of the Council, order the advisory referendum question or legislative initiative to be placed on the ballot and specify the day and hours for the election at which the advisory referendum question or legislative initiative shall be voted on. This may be either at the next regular municipal election or at a special election, in the discretion of the Council.

(4) In the event a special election is designated, the special election shall be held within a period of not less than forty (40) days nor more than sixty (60) days after the final passage of the resolution providing for the advisory referendum question or legislative initiative.

(5) Any resolution providing for the placement of an advisory referendum question or initiative on a ballot shall specify the exact wording which is to be submitted to the voters of the City.

Section 611 Vote Count

(a) Within twenty-four (24) hours after the closing of the polls, the judges of the election shall canvass the voting machines or other voting system, and count any paper ballots, regular and absentee, to determine the vote cast for each candidate or any questions on the ballot.

(b) The judges of the election shall meet the day following the election, and shall therefore determine and declare what persons have been elected, issue certificates of election to such persons, and certify the results to the Council.

Section 612 Recall Elections

(a) **Removal of Elected Officials.** The Mayor and any Councilmember of the City of Takoma Park may be removed from office by the affirmative vote of a majority of those voting in a special recall election.

(b) **Recall Petition.** A petition for the removal of the Mayor or any Councilmember from office (a "recall petition") shall state the name, office, and/or ward of the elected official whose recall is sought and that its purpose is to require a special recall election to vote on whether that elected official should be removed from office. A recall petition may, but does not have to, state a reason or reasons for the recall.

(1) A recall petition for the Mayor must have the signatures of at least 1,500 qualified voters of the City of Takoma Park or at least 20% of the qualified voters of the City, whichever is greater.

(2) A recall petition for a Councilmember must have the signatures of at least 100 qualified voters of the ward the Councilmember represents or at least 20% of the qualified voters of that ward, whichever is greater.

(3) A qualified voter of the City may sign a recall petition for the removal of more than one elected official. Each qualified voter shall print his/her name under the signature and shall include his/her address and the date of his/her signature on the recall petition.

(c) **Recall Election.** A special recall election shall be held not less than thirty (30) days and not more than forty-five (45) days from the date the City Clerk determines that a valid recall petition containing a sufficient number of signatures from qualified voters has been submitted. The Council shall establish the date for the recall election by resolution. If the elected official who is sought to be removed is a Councilmember, then only qualified voters of that Councilmember's ward may vote in the recall election.

(d) **Form of Question on Ballot.** The ballot for a special recall election shall have the following question: "Should [name of elected official] be removed from the office of [name of office]? Vote 'yes' or 'no'."

(e) **Results of Recall Election.** If a majority of those voting in the special recall election vote "yes," the elected official shall be removed from office immediately without the necessity of further Council action and the office shall be considered vacant. The resulting vacancy on the Council shall be filled in accordance with Section 308. An elected official who has been removed from the Council in a recall election may apply for reappointment to the Council or may petition to be listed as a candidate on a special election ballot to fill a vacancy on the Council. In the event the number of "yes" and "no" votes in the special recall election are the same, or a majority of those voting in the recall election vote "no," then the recall shall fail and the elected official shall remain in office.

Section 613 Regulation and Control by Council

The Council has the power to provide by ordinance in every respect not covered by the provisions of this charter for the conduct of registration, nomination, and City elections and for the prevention of fraud in connection therewith, and for a recount of ballots in case of doubt or fraud. The Council further has the power to create and appoint an Elections Board and to specify the functions and duties of an Elections Board. The Election Board's functions may include enforcing the City's elections laws and resolving complaints, disputes, and challenges on election matters. Ordinances heretofore adopted by the Council pertaining to election matters shall remain in force and effect until repealed or amended by the Council but only as to such

provisions as are not inconsistent with the provisions of this Article.

Section 614 Penalties

Any person who (1) fails to perform any duty required of him/her under the provisions of this subheading or any ordinances passed thereunder, (2) in any manner willfully or corruptly violates any of the provisions of this subheading or any ordinances passed thereunder, or (3) willfully or corruptly does anything which will or will tend to affect fraudulently any registration, nomination, or City election, is guilty of a misdemeanor. Any official, officer or employee of the City government who is convicted of a misdemeanor under the provisions of this section shall immediately upon conviction thereof cease to hold office or employment.

NOTICE OF WARD 5 CITY COUNCIL VACANCY AND NOTICE OF SPECIAL ELECTION

Notice of Council Vacancy

Ward 5 City Councilmember Marc Elrich has been elected to serve on the Montgomery County Council, where he will be sworn in on December 4, 2006. He has announced his resignation from the City Council effective December 3, 2006. Pursuant to Section 308 of the City Charter, if a vacancy on the City Council occurs more than 240 days before the next regularly scheduled City election, a special election shall be held to fill the vacancy.

Notice of Special Election

The Ward 5 special election will be held on Tuesday, January 30, 2006. The single polling place will be located at Columbia Union College, Wilkinson Hall, 7600 Flower Avenue, Takoma Park, Maryland. Polls will be open from 7:00 a.m. to 8:00 p.m.

Council Term

The term of office for the person elected will be from February 12, 2007 to November 19, 2007. Subsequent term(s) will follow the normal two-year Council term schedule, with elections held in November of odd-numbered years.

Qualifications of Candidates

Candidates for the Ward 5 City Council seat shall have resided in Ward 5 for at least six months immediately preceding the election (at least since July 30, 2006). Candidates shall be registered voters of the City. Councilmembers shall maintain their principal residence in the City and in their ward during their term of office. Councilmembers are prohibited from holding other publicly elected offices during their term of office and are prohibited from serving on any City board, commission, or other body that has authority to adjudicate or otherwise resolve disputes.

Petitions for Candidacy

In order for a candidate's name to be placed on the special election ballot, he or she must submit a petition at least 20 days prior to the election, on a form provided by the City Clerk, and signed by at least ten eligible voters in Ward 5. There is no nominating caucus for the special election. Petitions must be received by the City Clerk by 5:00 p.m. on Wednesday, January 10.

Absentee Ballots

Voters who may be absent from the City on election day or cannot personally vote at the polls on election day because of illness or physical disability may apply to vote by absentee ballot.

Applications for absentee ballots must be received by the City Clerk by 4:00 p.m. on Tuesday, January 23. Emergency absentee balloting begins January 24 for voters required to be absent on the day of election for any reason of which the person becomes aware after the time for applying for an absentee ballot.

Instant Runoff Voting

Pursuant to Charter Amendment Resolution 2006-1, an instant runoff voting system shall be used, allowing voters to rank candidates in order of choice. In an instant runoff system, voters rank candidates (1, 2, 3 and so on). If no candidate receives a majority of the first choices, the candidate with the fewest first choices is eliminated and those voters' second choice votes are redistributed to other candidates. This continues until one candidate receives a majority of votes.

and is elected.

Voter Registration

Only voters registered at an address in Ward 5 may vote in the special election. The voter registration cut-off date for the election will be Tuesday, January 2, 2007. All new registrations and changes of address must have been received by the Montgomery County Board of Elections by 5:00 p.m. on January 2 (or be postmarked on or before Saturday, December 30, 2006). Non-U.S. citizen voters must be registered with the City Clerk's Office by 5:00 p.m. on January 2, 2007. There will be no exceptions. Voter registration forms are available at the Takoma Park Community Center and at the Takoma Park Library.

Additional information will be posted at <http://www.takomaparkmd.gov>.

If you have questions, please contact the City Clerk's Office: 301-891-7267 or jessiec@takomagov.org

A sample ballot will be mailed to all Ward 5 registered voters prior to the Special Election.

**City of Takoma Park, Maryland
Ward 5 Special Election
Tuesday, January 30, 2007
Election Timetable**

Friday, December 29, 2006

City Clerk requests certified list of Takoma Park Ward 5 voters from Montgomery County Board of Elections. (Charter, Section 602(d))

Tuesday, January 2, 2007

Voter Registration cut-off date. All new registrations and changes of address must have been received by the Montgomery County Board of Elections (or postmarked by Saturday, December 30, 2006). Voter Registration applications for non-U.S. Citizens must have been received by the City Clerk's Office by 5:00 p.m. on January 2, 2007. There will be no exceptions. Takoma Park residency must be met by December 31 (30 days prior to the election) in order to vote in the election.. (Charter, Section 601(a))

Wednesday, January 10, 2007, 5:00 p.m.

Petitions to place a candidate's name on the ballot for the Special Election must be received by the City Clerk no later than 5:00 p.m. on this date. (Charter, Section 308(c)).

Friday, January 19, 2007, 5:00 p.m.

Candidates' Initial Campaign Contribution Reports due to City Clerk - to include contributions received since November 8, 2005. (Takoma Park Code, Section 5.12.020(B)(1))

Tuesday, January 23, 2007, 4:00 p.m.

Last day to make application for regular Absentee Ballot. (Takoma Park Code, Section 5.20.020(C))

Wednesday, January 24, 2007

Emergency absentee balloting begins. (Takoma Park Code, 5.20.030(A))

Friday, January 26, 2007, 5:00 p.m.

Any write-in candidate who wishes to be pre-registered as a write-in candidate and to have his/her name posted in the voting booth for the purpose of identifying him/her as a candidate for office, must file his/her name with the City Clerk by this deadline. (Charter, Section 605)

Tuesday, January 30, 2007 – WARD 5 SPECIAL ELECTION. Polls open 7:00 a.m. to 8:00 p.m. at Columbia Union College, Wilkinson Hall, 7600 Flower Avenue. Absentee ballots must be received by the City Clerk prior to the official closing of the polls on election day or postmarked **on or before** January 29. (Charter, Section 607(b), Section 609; Takoma Park Code, Section 5.20.060(B)(2))

Wednesday, January 31, 2007, 7:30 p.m.

Special meeting of the City Council to receive the certification of the election results.
(Charter, Section 611(b))

Friday, February 2, 2007, 5:00 p.m.

Deadline for contesting the results of the election and validity of Absentee Ballot voting.
(Takoma Park Code, Section 5.20.070(A))

Monday, February 5, 2007, 4:00 p.m.

Final Campaign Contribution Report due to City Clerk. (Takoma Park Code, Section 5.12.020(B)(2))

On or before Tuesday, February 6, 2007

In the event that an election contest is filed, then the City Manager appoints three election judges to investigate the facts of the contest. The Election Judges report on their election contest investigation and recommend action to the Council. (Takoma Park Code, Section 5.16.070(B))

On or before Friday, February 9, 2007

Special Meeting of Council to determine any election contest(s). (Takoma Park Code, Section 5.20.070(B))

Monday, February 12, 2007, 7:30 p.m.

New Ward 5 Councilmember takes office. Swearing-in at 7:30 p.m. (Charter, Section 301)

On or before Friday, March 16, 2007

Deadline for holding a run-off election – if after the instant runoff vote count a tie occurs between or among all remaining candidates, then a runoff election between or among the tied candidates shall be held within forty-five (45) days after the date of the election.
(Charter, Section 606(h))

April 30, 2007

Deadline for keeping ballots, punch cards, voting machine records, and absentee ballots unless a court of competent jurisdiction orders the records kept for a longer period.
(Takoma Park Code, Section 5.16.060)